IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.2418 OF 2005

Ms.Anchal Babulal Samant .. ..Petitioner
Versus
State of Maharashtra .. ..Respondent

Mr.Ramprakash Pandey i/b G.I.Sodhi for petitioner
Mr.A.S.Gadkari, APP for State

CORAM : J.N.PATEL &
SMT.ROSHAN DALVI, JJ.

DATE : 28TH AUGUST, 2006.

P.C.:

. Heard.

2. The Petitioner is the victim of offences committed by the persons, who were arraigned as accused in Criminal Case No.189/5/2000 in the Court of Metropolitan Magistrate, 18th Court, Girgaon, Mumbai for having committed offences under Section 467, 4768, 471, 419, 420 and 120B of Indian Penal Code. Out of three accused the original accused no.2 Manoharprasad Dularchand Pande was found absconding. His case was separated and accused Sudeshkumar Arya and his wife

Sunita Arya were tried and acquitted by the learned Metropolitan Magistrate by his Judgment and Order dated 27.12.2004.

3. In the course of the investigation which has been conducted by D.B.Marg Police Station, which resulted in filing of the charge-sheet, a sum of Rs.3 lacs was detected and seized, which according to the prosecution was withdrawn from the accounts of Ms. Anchal Babulal Samant i.e. the petitioner herein without her knowledge and consent from the Punjab National Bank, Opera House Branch and transferred to the account of accused Manoharprasad Pande (absconding) in Central Bank of India, Kher Nagar Branch, Bandra. It then came to be withdrawn by drawing a demand draft of Central Bank of India, Dhanbad Branch, Bihar and the police were successful in tracing it out by visiting Dhanbad and Jhumri Talaiya and it was found that Manoharprasad Pande is having account in Bank of India in Jhumari Talaiya Branch and while absconding accused had come to withdraw the same, he was arrested and has jumped on bail and he is not traceable.

4. The Petitioner, therefore, applied to the

learned Magistrate to permit her to withdraw the sum of Rs.3 lacs. The learned Magistrate passed an order giving direction that the amount of Rs.3 lacs should not be withdrawn that the accused no.2 is absconding and did not allow the application filed by the petitioner, admittedly, to whom the amount is belongs. We therefore, direct the concerned Bank i.e. Central Bank of India, Khernagar Branch, Bandra to transfer the said amount along with interest accrued thereon, to the account of the Petitioner that is in Saving Account NO.13118 Punjab National Bank, Opera House Branch, Mumbai. We make it clear that the respective banks would preserve the instruments which are in their possession while effecting the transactions by the absconding accused, if these instruments are not seized by the police and/or not in the custody of Metropolitan Magistrate, 18th Court, Girgaon, Mumbai where the trial against the absconding accused is still pending,. The petition stands disposed of.

(J.N.Patel, J.)

(Smt. Roshan Dalvi, J.)